

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:	
THE COMPLAINT OF CAROLYN FRAHM	DOCKET NO. FCU-2013-0007

**ORDER GRANTING, IN PART, AND DENYING, IN PART,
MOTION FOR CONFIDENTIAL TREATMENT FILED DECEMBER 10, 2014**

(Issued July 1, 2016)

On November 13, 2014, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed with the Utilities Board (Board) a report (Report) in this proceeding detailing what it learned from an investigation of issues relating to call completion problems experienced by consumers in rural areas of Iowa. OCA also filed discovery response exhibits, including exhibits containing responses from Airus, Inc. (Airus). OCA filed public and confidential versions of its Report and exhibits.

Certain portions of the Report refer to the data request responses Airus provided to OCA. OCA redacted from the public version of the report the information designated as confidential by Airus. On December 10, 2014, Airus filed a motion for confidential treatment of the exhibits pertaining to Airus attached to OCA's Report and of portions of the report that refer to the Airus confidential exhibits. Airus filed its motion for confidential treatment pursuant to the Board's rules at 199 IAC 1.9(5)(a)(1) and 1.9(6) and Iowa Code § 22.7.

Airus asserted the exhibits and associated portions of the Report (the Confidential Information), which are marked "confidential," include proprietary business information and trade secrets that belong to Airus. According to Airus, this confidential information includes the identities of third-party telecommunications carriers with which Airus contracts for services and specific information, including pricing, about those contracts. Airus also stated that the Confidential Information includes competitively-sensitive information about vendors that provide wholesale services to Airus and about the company's internal policies, which Airus contends are trade secrets. Airus stated that the information derives independent economic value from not being generally known to and not readily ascertainable by proper means by competitors able to obtain economic value from its disclosure or use. Airus explained it does not disclose the information publicly and uses reasonable care to maintain the secrecy of the information. Airus stated that public disclosure of the Confidential Information could cause harm to the business operations of Airus and the third-party vendors used by Airus.

In support of the motion, Airus attached the affidavit of Julie Oost, the company's Vice-President for Regulatory Affairs and Contract Management, in which Ms. Oost attests to the competitively sensitive nature of the information. OCA did not resist Airus' motion.

Based on Airus' motion and affidavit, the Board concludes that the information filed by OCA on November 13, 2014, is a report to a governmental agency, the

release of which give advantage to competitors of Airus and serve no public purpose, making a prima facie case for granting the request for confidential treatment, but with one exception. The Board will grant the motion for confidential treatment of the Confidential Information identified by Airus except for the identity of any third party telecommunications carrier Airus has named in a subsequent public filing.¹

With that exception, the Board will hold the information confidential pursuant to Iowa Code § 22.7(6). Because the Board is granting Airus' motion pursuant to Iowa Code § 22.7(6), the Board is not addressing the assertion that the information is also entitled to confidential treatment pursuant to Iowa Code § 22.7(3) as a trade secret.

IT IS THEREFORE ORDERED:

1. The request for confidential treatment filed by Airus, Inc., on December 10, 2014, is granted, in part, and denied, in part, as described in the body of this order.
2. The information shall be held confidential by the Board subject to the provisions of 199 IAC 1.9(8)(b)(3).

¹ On April 27, 2015, Airus filed in this docket its "Proposed, Effective, Preventative, Long-Term Solutions to Call Completion Problems of Airus, Inc." in which Airus identified a certain third party carrier that was involved in the routing of the calls at issue in this case. Airus did not request confidential treatment of the identity of the carrier named in the April 27, 2015, filing.

3. Pursuant to 199 IAC 1.9, Airus shall have 14 days from the date of this order to initiate court action to prevent disclosure of the information for which confidential treatment is denied, if it so chooses.

UTILITIES BOARD

/s/ Geri D. Huser

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 1st day of July 2016.